

Message

From: Bravo, Antonio [Bravo.Antonio@epa.gov]
Sent: 8/19/2020 7:35:52 PM
To: Weiler, Katherine [Weiler.Katherine@epa.gov]; Hurlid, Kathy [Hurlid.Kathy@epa.gov]; Chemerys, Ruth [Chemerys.Ruth@epa.gov]
Subject: FW: REg Plan INformation: Action Item: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date
Attachments: State Assumption 404g.Reg Plan.FallFY21.docx; VIDA Fall FY21 Plan.docx

I'll need your help with the 5 reg questions....another quick turnaround....Sorry!

From: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Sent: Wednesday, August 19, 2020 12:05 PM
To: Bravo, Antonio <Bravo.Antonio@epa.gov>
Cc: Akopian, Natalia <akopian.natalia@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>
Subject: REg Plan INformation: Action Item: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date
Importance: High

Antonio are OWOW's revisions in the chart? I didn't get one in your email. If so, send it when it has John's approval.

I've attached two actions that may be on the Reg Plan. Please have the workgroup chairs add responses to the last 5 Reg Plan questions.

There are 5 questions at the end that need to be filled out. Since this has not published, we will not have data for these questions. Responses to add may be like the following: To be determined or Options will be considered in the proposed rule, or some other response that information will be provided in the proposed rule.

Please once information is added, please send these to the respective OGC reps for review and clearance. They will need to turn this around quickly within a day (Cc me on the email).

Thanks,
Sandy

From: Bravo, Antonio <Bravo.Antonio@epa.gov>
Sent: Wednesday, August 19, 2020 11:43 AM
To: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Cc: Akopian, Natalia <akopian.natalia@epa.gov>
Subject: RE: Action Item: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date

Sandra Connors has cleared but she asked me to wait for John Goodin's approval. I don't think there will be any changes from him because Mindy has spoken with him about this several times, but I really should wait to say "cleared by OWOW" until I hear back from him.

I'll let you decide whether to forward our stuff to Anna (and we can edit later if any changes occur)....your call.

Sorry. Antonio

From: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Sent: Wednesday, August 19, 2020 10:58 AM
To: Bravo, Antonio <Bravo.Antonio@epa.gov>
Cc: Akopian, Natalia <akopian.natalia@epa.gov>
Subject: RE: Action Item: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date

Antonio: I'm getting ready to send the first batch of charts to Anna and wanted to know the status of OWOW's. When do you expect John to review and approve the actions and changes? You can send me the chart before you make the edits in ADP tracker so that Anna and other senior managers can start reviewing it.

Please let me know the status and potential timing to receive it.

Sandy

From: Bravo, Antonio <Bravo.Antonio@epa.gov>
Sent: Tuesday, August 18, 2020 4:57 PM
To: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Subject: FW: Action Item: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date
Importance: High

Just to let you know this was shared with John/Sandra for approval.

Also, I already made changes in the timetable for 404(g).

I'll get back to this first thing tomorrow...and hopefully we'll have John's clearance.

Thanks. Antonio

From: Bravo, Antonio
Sent: Tuesday, August 18, 2020 2:11 PM
To: Goodin, John <Goodin.John@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>
Cc: Dickens, Sandy <Dickens.Sandy@epa.gov>
Subject: FW: Action Item: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date
Importance: High

John/Sandra,

Here are the two actions for the Fall Regulatory Plan priorities for OWOW.

These write-ups have been reviewed by Brian and Mindy.

I will forward to Sandy Evalenko immediately upon your concurrence.

Thank you! Antonio

404 (g)

Modernizing Regulations on State and Tribal 404 Assumption under Clean Water Act Section 404(g)

Under CWA section 404, a permit is required before dredged or fill material can be discharged into waters of the United States, including certain wetlands. Section 404(g)(1) of the CWA provides states and tribes the option of administering the CWA section 404 permit program in certain waters within the state's or tribe's jurisdiction respectively. To date, only Michigan and New Jersey have assumed administration of the Section 404 program – the Army Corps of Engineers retains permitting authority for the rest of the country. In response to requests from states and tribes, EPA is seeking to clarify assumption requirements, reduce barriers to assumption, and place more states and tribes in the decision-making position on dredged and fill permits. The proposed rule will address the procedures and criteria EPA will follow in approving, reviewing, administration and oversight of state and tribal programs under CWA section 404(g) and EPA's implementing regulations at 40 CFR part 233.

Vessels Incidental Discharge Act (VIDA)

Vessel Incidental Discharge Act of 2018 – Vessel Incidental Discharge National Standards of Performance. On December 4, 2018, President Trump signed into law the Vessel Incidental Discharge Act (VIDA), establishing a new framework for the regulation of discharges incidental to the normal operation of vessels. The VIDA is part of Title IX of the Frank LoBiondo Coast Guard Reauthorization Act of 2018, which addresses a number of maritime and environmental policies. Under the VIDA, EPA is responsible for developing national performance standards for approximately 30 different categories of discharges from primarily commercial vessels greater than 79 feet in length, and for ballast water from commercial vessels of all sizes. Generally, the VIDA requires EPA to establish discharge performance standards at least as stringent as the 2013 National Pollutant Discharge Elimination System Vessel General Permit. This proposed rule is intended to implement VIDA.

From: Bravo, Antonio
Sent: Tuesday, August 18, 2020 9:43 AM
To: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: Re: Action Item: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date

Yes both of those.

Sent from my iPhone

On Aug 18, 2020, at 9:41 AM, Evalenko, Sandy <Evalenko.Sandy@epa.gov> wrote:

Antonio: Thanks for the update. I was looking at the last Fall FY20 Plan actions and there were a few from OWOW. I attached the FY20 Plan priorities description. Do you know now if OWOW plans to submit VIDA or maybe CWA 404(g) as a Plan action?

Sandy

From: Bravo, Antonio <Bravo.Antonio@epa.gov>
Sent: Monday, August 17, 2020 5:52 PM
To: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: Re: Action Item: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date

We are working it and will have the update by cob tomorrow!

Sent from my iPhone

On Aug 17, 2020, at 5:35 PM, Evalenko, Sandy <Evalenko.Sandy@epa.gov> wrote:

All: This is a friendly reminder that the reg agenda and plan entries are due tomorrow. I only heard from one office regarding the Reg Plan entries and have pasted the list below. Below the draft list is the list of actions on the Fall 2019 Plan.

Thanks,
Sandy

The Criteria for Plan Actions are **Reg Plan** entries must:

- Reflect the Administrator's priorities, particularly with respect to regulatory reform;
- Be actions with an anticipated proposal or final stage publishing in the Federal Register during FY21;
- Be "significant" under the terms of EO 12866;
- Contain narrative additional information about need, legal basis, alternatives, anticipated costs & benefits, and risks; and
- At the AA-ship level, include a media-related narrative for the Reg Plan Statement of Priorities.

Below is a draft list. Please let me know if I missed an email regarding other potential Fall 2020 Reg Plan entries.

Draft Fall FY20 Plan

1. Peak Flow Management
2. Increasing Consistency and Transparency in Considering Benefits and Costs in the Safe Drinking Water Act
3. Regulatory Determinations for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS)
4. Vessel Incidental Discharge National Standards of Performance

Fall 2019 List

- Updating Regulations on Water Quality Certification CWA section 401
- Peak Flows Management
- Revised Definition of 'Waters of the United States'
- National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions
- Vessel Incidental Discharge Act of 2018
- Regulatory Determinations for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS)
- Clean Water Act Section 404(c) Regulatory Revision

Thanks,
Sandy

From: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Sent: Wednesday, August 12, 2020 6:36 PM
To: Flaharty, Stephanie <Flaharty.Stephanie@epa.gov>; Stebe, Katherine <Stebe.Katherine@epa.gov>; Weyer, Erica <weyer.eric@epa.gov>; Bravo, Antonio <Bravo.Antonio@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Lousberg, Macara <Lousberg.Macara@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>; Akopian, Natalia <akopian.natalia@epa.gov>; Evalenko, Sandy <Evalenko.Sandy@epa.gov>; Reed, Khesha <Reed.Khesha@epa.gov>; Scozzafava, MichaelE <Scozzafava.MichaelE@epa.gov>; Aguirre, Janita <Aguirre.Janita@epa.gov>
Subject: Action Item: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date

All –OP received direction from OMB on the Fall FY 20 Regulatory Plan and Agenda.(see at the very bottom). The Reg Agenda and Reg Plan information are due to OP on 8/26.

The original dates for the Reg. Plan and Agenda data are critical to meet with the exception of the cost accounting worksheets for Final Rules. These cost accounting excel worksheets can be sent to WPS by 8/24. We will just send these to Charlotte and Anna for their approval by 8/31.

Call me with questions.
Sandy

From: Evalenko, Sandy
Sent: Wednesday, August 05, 2020 9:05 AM
To: Flaharty, Stephanie <Flaharty.Stephanie@epa.gov>; Stebe, Katherine <Stebe.Katherine@epa.gov>; Weyer, Erica <weyer.eric@epa.gov>; Bravo, Antonio <Bravo.Antonio@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Lousberg, Macara <Lousberg.Macara@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>; Akopian, Natalia <Akopian.Natalia@epa.gov>
Subject: Action Item- Fall 2020 Regulatory Plan and Agenda and the Federal Regulatory and Deregulatory Actions and FY 20 Regulatory Cost Allowances

SRMs: At the last RSC meeting, OP asked that we start working on our completed regulatory actions for the Fall Reg Agenda in advance of OMB's Call letter. Last year's Fall-Agenda call letter from OMB is attached. We started work on the Fall Regulatory Agenda in July.

WPS is initiating efforts on the Fall Regulatory Plan and Agenda in advance of OP's request and the OMB call letter to avoid the tight deadlines. There are certain activities that we do each year for the Fall Regulatory Plan and Agenda. Every Reg agenda cycle we update the status, publication dates, and the abstracts for regulatory actions that were published since the last Regulatory agenda published.

We are initiating activities on the following activities and timeframes to complete:

1. **Fall 2020 Regulatory Agenda by 8/18:** Attached is the Draft Fall Regulatory Agenda chart. The Office of Water has 27 actions in the Regulatory Agenda. The OW Spring Regulatory Agenda list is also attached for reference if needed.
 - a. Actions that published- revise the abstracts, status and remaining publication date if any
 - b. Actions that didn't publish may need the publication date(s)

Updates should be made in redline, strikeout text in the Fall Draft chart and in ADP tracker.

Offices need to have their revisions drafted, OGC cleared and then approved by the OD no later than **8/18/20.**

Please send these in ADP tracker

2. **Fall Plan** (Should we ask Anna for recommendations?): The Fall Plan highlights key, significant rulemakings that we expect to publish in FY21 (between October 2020 and September 2021). For the Fall 2019, the Office of Water included the NTW
 - a. Draft list for AA approval
 - b. Revised Plan Priorities description (see attached 2020 Fall Plan priorities)
 - c. Once Plan list is approved, prepare additional information in ADP Tracker for Plan actions.

Recommendations for the Plan list submitted by **August 14.**

3. **Regulatory Cost Accounting Sheets:** For final rules signed and published by September 30, 2020, we to complete the cost accounting sheet for each rule (see attached). Prepared to submit the accounting sheets for all rules finalized in FY 20 by **August 19.**

Please send your edits and documents to Sandy, Christine and Natalia Akopia. If you need extra time, call me.

We appreciate your efforts to getting this done in August!

Sandy

From: Muellerleile, Caryn <Muellerleile.Caryn@epa.gov>

Sent: Wednesday, August 12, 2020 4:28 PM

To: RSC Core <RSC_Core@epa.gov>; Ngo, Kim <Ngo.Kim@epa.gov>; Moore, Sonya <Moore.Sonya@epa.gov>; Zull, Aaron <zull.aaron@epa.gov>; Fiedorczyk, Bryan <Fiedorczyk.Bryan@epa.gov>

Cc: Manibusan, Mary <Manibusan.Mary@epa.gov>; Kramer, Melissa <Kramer.Melissa@epa.gov>; Wiggins, Lanelle <Wiggins.Lanelle@epa.gov>; Adams, Darryl <Adams.Darryl@epa.gov>; Sughrue, Karen <Sughrue.Karen@epa.gov>

Subject: Fall 2020 Regulatory Plan and Agenda Data Call - August 26 due date

Importance: High

RSC Members,

OMB has provided us direction on the fall 2020 regulatory plan and agenda, combined with EO 13771 cost allowance submission (FY21 projected) + 13771 cost accounting submission (FY20 completed). We request that you read the following instructions and information carefully. Note that this timeline is aggressive and you should assume all due dates are intended to provide for the Administrator's review prior to EPA's transmission of agenda, plan, and EO 13771 accounting data to OMB.

1. **Immediate:** Use Lotus Notes > **ADP TRACKER** > Reg Reporting > Agenda Entries to see all Reg Agenda entries queued up for your office/AAship/region. If there are any erroneous omissions or additions, please contact Darryl Adams or Caryn Muellerleile. Contact Darryl Adams with any ADP Tracker issues.
2. **August 21, 2020:** Submit your AA-ships' **Reg Plan** entries by selecting Reg Agenda Entry > Status > Reg Plan > **Yes**. Reg Plan entries must:
 - Reflect the Administrator's priorities, particularly with respect to regulatory reform;
 - Be actions with an anticipated proposal or final stage publishing in the Federal Register during FY21;
 - Be "significant" under the terms of EO 12866;
 - Contain narrative additional information about need, legal basis, alternatives, anticipated costs & benefits, and risks; and
 - At the AA-ship level, include a media-related narrative for the Reg Plan Statement of Priorities. [See 2019 narrative: https://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201910/Statement_2000_EPA.pdf]
3. **August 26, 2020:** All Regulatory Plan entries and Agenda entries in ADP TRACKER must be revised, reviewed by legal and policy analysts, and approved through each AA-ships' senior management.
 - For certain actions that will be new EPA's fall 2020 agenda, OMB may require additional information.
4. **August 31, 2020:** Anticipated FY21 final actions that are regulatory or deregulatory under the terms of EO 13771 must have cost or cost saving estimates to OP. These are best-guess estimates your office has for any action with a final rulemaking stage that triggers EO 13771 as regulatory or deregulatory. The information needed includes:
 - Annualized costs or cost savings and/or the present value of those costs or cost savings using a 7% discount rate.
 - Currency year of the analysis (i.e. the dollar value year)
 - Length of time of the analysis over which these estimates are calculated
5. **Now - Sept. 30, 2020:** Accounting data for finalized regulatory and deregulatory actions for FY20 should be sent to OP at the time of signature of the final action. Please continue to submit accounting information in the attached template to OP (Caryn Muellerleile, Lanelle Wiggins) on a continuous basis.

As always, we request that you continue to be mindful of the following areas:

- EPA should avoid use of EO 13771 designation category "Other."

- Consider whether actions listed as “inactive” (or “pending” in ADP TRACKER) can be withdrawn.
- Any action listed as “Long-Term” will have a projected next stage of 10/01/2021 or later.
- Abstracts for any actions that are withdrawn should be revised to reflect the agency’s decision to discontinue the action.
- Abstracts of completed actions should reflect completion rather than projection.
- There should not be any “Undetermined” responses for completed actions.
- Actions that have a priority category “Economically significant” are almost always “Major” under CRA.
- Actions that trigger UMRA > government typically also trigger federalism and some “government levels affected.”
- Spell out all acronyms other than “EPA,” and use plain language in writing your abstracts.

Please work with your legal and policy workgroup representatives to carefully review and revise the abstract, timetable, and other data fields of all reg. agenda and plan entries. The presumptive deadline for all entries for your office/AA-ship/region to be approved through the policy AA or RA level is **August 26, 2020**.

- For questions about the Regulatory Agenda, contact Darryl Adams (202) 564-6569 or Karen Sughrue (202) 564-5564. Contact Darryl Adams with any ADP Tracker questions or issues.
- For questions about cost allowances and cost savings, contact Lanelle Wiggins (202) 566-2372.
- For questions about Regulatory Plan or any other agenda-related matters, contact Caryn Muellerleile (202) 564-2855.

<mime-attachment>